IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc 34997-M of 2007

Date of decision: 7.9.2007

Satish Kumar Malik …Petitioner

Versus

State of Haryana and anr … Respondents

Present: Mr Gaurav Mohunta, Advocate for the petitioner.
Mr Vikas Chaudhary, AAG Haryana.
Mr Deepak Gupta, Advocate for the complainant.

S.S. SARON, J.

The affidavit of respondent-2 along with Compromise (Annexure A1) filed in Court today is taken on record.

The present petition under Section 482 CrPC has been filed seeking quashing of the FIR 59 dated 30.1.2006 registered at PS Chandni Bagh, Panipat for the offences under Sections 420, 467, 468, 469, 471 and 379 IPC.

The petitioner filed a complaint dated 15.10.2004 (Annexure P1) against Hira Lal (respondent-2) under Section 138 of the Negotiable Instruments Act 1881 (Act – for short). It was alleged that a cheque dated 19.8.2004 for a sum of Rs 5.00 lakhs issued by respondent-2 in favour of the petitioner had been dishonoured by the Bank of respondent-2 with the remarks; “insufficient funds”. The impugned FIR 59 dated 30.1.2006, it is stated, is a counter-blast to the complaint filed by the petitioner under Section 138 of the Act. It has inter alia been alleged in the impugned FIR by

Hira Lal (complainant-respondent-2) that on receipt of legal notice from the counsel for the petitioner, he came to know that the petitioner had got a cheque dated 19.8.2004 for a sum of Rs 5.00 lakhs in his name which had the signatures of respondent-2. He, therefore, through his Advocate, sent a reply to the notice asking for photocopy of the cheque so that signatures could be verified. However, instead of sending the photocopy, the petitioner filed a case in the Court of JMIC, Gohana. Respondent-2 appeared in the Court and applied for permission for verification of the signatures on the cheque. He received permission for the same and asked the handwriting expert to make a report. In terms of the report, it was found that the cheque in question did not bear the signatures of respondent-2. Therefore, it is alleged that the petitioner by stealing his cheque had forged the signatures on it and filed a criminal case. In terms of the reply that has been filed by respondent-2, it is stated that with the intervention of the respectables and Bradari members of the village, a compromise had been effected between both the parties and it has been agreed by both the parties that they would withdraw their respective cases that have been filed against each other. It has been agreed by respondent-2 (complainant) that he would withdraw the case FIR 59 dated 30.1.2006 registered at PS Chandni Bagh, Panipat which is impugned in the present petition. In view of the compromise, it is stated that respondent-2 does not want to pursue the matter any further. Besides, no transaction remains pending between the parties. It has been deposed by respondent-2 that he has no objection if the present FIR registered against the petitioner is quashed.

Reply has also been filed by SP Panipat on behalf of respondent-1. It has been stated that the FIR in question was registered on

the basis of directions issued by the Ilaqa Magistrate in terms of Section 156 (3) CrPC. The report of FSL Madhuban with regard to comparison of the signatures of the complainant – Hira Lal (respondent-2) is placed on record as Annexure R1. In terms of the said report, the person who wrote the red ink standard signatures, stamped and marked S1, S2 and A1 to A8 (stated to be of Hira Lal) did not write the questioned signatures similarly stamped and marked Q1. After investigation, charge report (challan) in terms of Section 173 CrPC has been filed which is fixed for framing the charge. The averments regarding compromise of the matter between the parties are denied for want of knowledge.

After hearing learned counsel for the parties and perusing the record, it may be noticed that the matter between the parties has been compromised. The petitioner had filed the complaint (Annexure P1) under Section 138 of the Act against respondent-2. As regards the said complaint, the petitioner made a statement on 28.4.2007 (Annexure P3) stating therein that he had compromised with Hira Lal (respondent-2) and he does not want to pursue the complaint. On the basis of the said statement, the complaint was dismissed as withdrawn vide order dated 28.4.2007. The complainant-respondent-2 has deposed an affidavit dated 7.9.2007 that he has no objection to the quashing of the FIR in the present case as the matter has been compromised in terms of Annexure A1. The case is at its initial stage. The challan only has been filed by the Police. Therefore, keeping in view the compromise that has been effected between the parties, it would be just and expedient to quash the impugned FIR. In ***Kulwinder Singh v. State of Punjab*** 2007(3) RCR (Cr) 1052 (P&H) (5-Judges), it has been held as follows:-

" The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the CrPC is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "*finest hour of justice*". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the CrPC, in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

The only inevitable conclusion from the above discussion is that there is no statutory bar under the CrPC which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the CrPC, in order to prevent the abuse of law and to secure the ends of justice."

The present case being one of commercial transaction between the parties, it would be just and expedient to quash the FIR.

Accordingly, the criminal misc petition is allowed and case FIR 59 dated 30.1.2006 registered at PS Chandni Bagh Panipat for the offences under Sections 420, 467, 468, 469, 471 and 371 IPC and all subsequent and consequential proceedings arising therefrom shall stand quashed.

7.9.2008. (S.S.SARON)
ASR JUDGE